

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

SHAMELL ANTWANE HILL

PETITIONER

V.

CIVIL ACTION NO. 3:20-CV-113-KHJ-FKB

BILLY SOLLIE

RESPONDENT

ORDER ADOPTING REPORT AND RECOMMENDATION

Before the Court is the Report and Recommendation of United States Magistrate Judge F. Keith Ball. [17]. The Report recommends that the Court grant Respondent Billy Sollie's Motion to Dismiss [9] and dismiss Petitioner Shamell Antwane Hill's Petition for Writ of Habeas Corpus [1]. Written objections to the Report were due by February 10, 2021. The Report notified the parties that failure to file written objections to the findings and recommendations by that date would bar further appeal in accordance with 28 U.S.C. § 636. [17] at 2. Hill filed no objection.

When no party has objected to a magistrate judge's report and recommendation, the Court need not review it de novo. 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). In such cases, the Court applies the "clearly erroneous, abuse of discretion and contrary to law" standard of review. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Hill is a pretrial detainee being held at the Lauderdale County Detention Center on charges of capital murder and subsequent charges of possession of methamphetamine and marijuana while detained. Report [17] at 1. He brings his Petition [1] pursuant to 28 U.S.C. § 2241 on speedy trial grounds and seeks to have his charges dismissed and to be released. *Id.*

Although a pretrial detainee may bring a § 2241 petition for habeas corpus on speedy trial grounds, the Fifth Circuit distinguishes those detainees seeking to have their charges dismissed and those seeking to have their cases brought to trial. *Brown v. Estelle*, 530 F.2d 1280, 1283 (5th Cir. 1976) (citing *Tooten v. Shevin*, 493 F.2d 173 (5th Cir. 1974), *cert. denied*, 421 U.S. 966 (1975)). Relief is not available for those seeking to have charges against them dismissed, but is available for those seeking a trial, though state remedies court must first be exhausted. *Id.*

The Magistrate Judge entered his Report and Recommendation, finding that Hill was seeking to have his charges dismissed and to be released, not to have his case brought to trial. [17] at 1-2. The Magistrate Judge further found that, if Hill was seeking to have his case brought to trial, he had failed to exhaust his state court remedies. *Id.* Based on these findings, the Magistrate Judge recommended Sollie's Motion to Dismiss [9] be granted and the Petition [1] dismissed. *Id.* at 2. Hill filed no objection to the Report and Recommendation. After review of the record, the Court, being fully advised in the premises, finds that the Report and Recommendation is neither clearly erroneous nor contrary to law and should be adopted as the opinion of this Court.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the Report and Recommendation [17] of United States Magistrate F. Keith Ball, entered in this cause should be, and the same is, adopted as the finding of this Court. Solle's Motion to Dismiss [9] is GRANTED. The Petition [1] is DISMISSED.

A separate Final Judgment shall issue this day.

SO ORDERED, this the 23rd day of February, 2021.

s/ *Kristi H. Johnson*
UNITED STATES DISTRICT JUDGE